

**- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -**

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**IN THE MATTER OF THE REQUEST OF        )        DOCKET NO. 02-2270-01**  
**ALL WEST COMMUNICATIONS, INC.         )**  
**FOR REVISION TO EXCHANGE             )        DPU Exhibit No. 2.0**  
**BOUNDARIES**

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**REBUTTAL TESTIMONY**

**OF**

**E. CLAIR OMAN**

**DIVISION OF PUBLIC UTILITIES**  
**DEPARTMENT OF COMMERCE**  
**STATE OF UTAH**

**OCTOBER 20, 2006**

## TABLE OF CONTENTS

<b><u>Subject</u></b>	<b><u>Page Number</u></b>
I. IDENTIFICATION OF WITNESS	3
II. PURPOSE OF TESTIMONY	3
III. AREAS CONSIDERED BY THE DIVISION	4
IV. CONCLUSION	9
V. EXHIBIT(S)	15

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
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**I. IDENTIFICATION OF WITNESS**

**Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION WITH THE DIVISION OF PUBLIC UTILITIES.**

A. My name is Clair Oman. My business address is Heber M. Wells Building, 160 East 300 South, 4<sup>th</sup> Floor, Salt Lake City, Utah. I am employed as a Utility Analyst for the State of Utah in the Division of Public Utilities. I am testifying on behalf of the Division of Public Utilities (DPU).

**Q. WHAT ARE YOUR EDUCATIONAL BACKGROUND, QUALIFICATIONS AND EMPLOYMENT EXPERIENCE?**

A. My qualifications are summarized on the attached DPU Exhibit 2.1.

**II. PURPOSE OF TESTIMONY**

**Q. PLEASE STATE THE PURPOSE OF YOUR TESTIMONY.**

A. I will discuss the effect of transferring the area of the Promontory subdivision currently in the Qwest Park City exchange to All West Communications Jordanelle exchange and the effects of the transfer on the Utah Universal Service Fund and also on the Federal High Cost Loop Support Fund.

23 **Q: Do Federal USF support payments presently flow to All West for the**  
24 **investment in the Promontory subdivision?**

25

26 A. According to the information provided by All West the investment related to both  
27 east and west Promontory have been recorded on the plant records of All West  
28 (ILEC) and would be reported to NECA and included in the All West USF  
29 revenue requirement for the Federal USF Fund.

30

31 **Q Is it proper for the investment related to the West Promontory subdivision to**  
32 **be recorded on All West (ILEC) records?**

33

34 A. These costs should either be recorded on the All West Utah CLEC records or  
35 separated to the non-regulated portion of the settlement along with any  
36 associated expenses based upon All West's response it appears neither of these  
37 methods have been used. All West has indicated (All West Com Inc's response  
38 to Qwest's second set of data requests 2.18) that they have been waiting for  
39 resolution of this boundary issue before making these separations. This intent  
40 does not appear to have been of concern when the contract ( between All West  
41 Comm. All West Utah and Pivital Promontory Development) dated August 15,  
42 2001 was executed. The contract in paragraph 3 Facilities Provided Indicates that  
43 AWC ( ILEC All West Communications) and AWU (CLEC All West Utah) will  
44 provide service to the development. Paragraph 6 Regulated and Non-Regulated

45            Services indicates that the service is to be provided by AWC in their certificated  
46            area and by AWU Outside AWC certificated area. These agreement stipulations  
47            indicate that at the outset the intent was to operate as a regulated utility in the  
48            regulated area and as a non regulated CLEC in the Qwest area.

49

50    **Q    Is the Federal USF fund frozen and therefore All West is precluded from**  
51    **receiving additional Federal USF support?**

52

53    A    The Federal USF is capped, meaning that the total expenditure amount is limited.  
54            However, the method used to determine the companies that receive fund support  
55            is adjusted to allow the companies with the highest loop cost to receive that  
56            support. This may mean that there may be companies with lower loop costs may  
57            be dropped from the fund.

58

59    **Q.    What is All West's loop cost compared to the national average?**

60    A.    All West's loop cost amount for the 2004 was approximately \$700 with the  
61            national average being near \$250. That would indicate that All West's costs are  
62            not close enough to the national average to be in danger of being one of the  
63            companies that is dropped from receiving support from the Federal USF Fund.

64

65    **Q    What is the loop cost in the Promontory subdivision?**

66

67     **A.**     The information provided by All West indicates that the approximate net cost per  
68             subscriber is \$1900. This amount would indicate that this subdivision is  
69             a very high cost area. Of course some of that cost would be for services  
70             other than POTS (plain old telephone service). Even if 50% of that cost were  
71             allocated to non regulated services (CATV & internet) the cost per loop is still  
72             significantly higher than the norm. This loop cost is estimated and could be  
73             clarified by All West providing copies of annual cost studies which are required  
74             to separate the non-regulated from other plant.

75     **Q.     Is there a method whereby the higher loop cost in the Promontory**  
76             **subdivision could be brought more into line with All West’s current loop**  
77             **cost?**

78  
79     **A.**     All West in their response to the Division’s first set of data requests indicated that  
80             the installation costs are to be offset by a \$500.00 fiber to the home surcharge for  
81             each new installation. This surcharge could be increased by All West which  
82             would lower the loop cost in this area to more closely represent the current loop  
83             cost of All West. This would also lessen the impact of this high cost area on All  
84             West’s other subscribers and the Utah USF fund if the area is transferred.

85  
86  
87     **Q.     Will this higher loop cost tend to increase the draw on the Utah USF?**

88

89 A. The Utah USF is not directly related to loop cost as is the Federal USF.  
90 However, increases in investment and expenses will increase the All West's (rate  
91 of return ILEC) costs and thereby the required contribution by the Utah USF  
92 there again if the area is in the end transferred. As All West has not provided fully  
93 separated costs for present investment in the current developed portion of  
94 Promontory, and with the difficulty in projecting expense levels, the exact amount  
95 cannot be calculated, however an increase in draw is imminent. This increase in  
96 draw will be required for the ILEC portion of the subdivision, and further  
97 increase of the ILEC study area by a boundary change would cause additional  
98 revenue requirements.

99

100 **Q. The DPU has proposed an alternate to the All West requested**  
101 **boundary change. Will this proposed boundary change also increase the**  
102 **draw**  
103 **from the Utah USF?**

104

105 A. There will be additional revenue requirements as a result of this boundary  
106 alteration, but since this is a small portion of the subdivision (only 73 lots), the  
107 increase will not be a material amount. This change as indicated in the  
108 testimony of Paul Anderson is primarily intended to alleviate the confusion  
109 for subscribers living in the areas and carriers serving the areas. The  
110 transfer of this area would be the recommendation of the DPU regardless

111 of whether approval for Federal USF is obtained.

112

113 **Q. How will current FCC regulations affect the transfer of this area if the**  
114 **Transfer is approved by the Utah Public Service Commission?**

115

116 A. The FCC rules (54.305) present difficulty if not prevention of receiving eligibility  
117 For Federal USF in the sale or transfers of exchanges when the original owner of  
118 the exchange did not receive support from the fund. This instance would require  
119 clarification by the The FCC as to (1) whether a part of an exchange with no  
120 subscribers is deemed to be an exchange, and (2) to what extent the area is  
121 eligible for Federal USF support. FCC rules (54.207) indicates that the  
122 proposed change in service area shall not take effect until both the FCC and  
123 state commission agree upon the definition of a rural service area. This change  
124 could take significant time to effect and good possibility exists that the area would  
125 not be eligible for Federal USF.

126

127 **Q. Would the transfer of this area requested by All West be in the public**  
128 **interest if the final decision determines that the area is not eligible for**  
129 **Federal USF?**

130

131 A. It would not be in the public interest if no Federal USF is available and  
132 the Utah USF is left to provide for any support that may be due All West.



133 Therefore it would be the recommendation of the DPU that if the Commission  
134 is inclined to approve the All West proposed transfers that such transfer be  
135 conditioned upon the approval of the said area to receive Federal USF.

136

137 **Q. Are there comparable areas in the vicinity of The Promontory subdivision.**

138

139 A. There are some developments in the Qwest service territory on the opposite side  
140 of I-80 that have developed within the last 10 to 15 years. They appear to be of  
141 significantly lower density and Qwest has been able to provide the subscribers  
142 service without the support of the Federal USF. This may have been  
143 accomplished by higher construction charges to the subscribers. It therefore  
144 would not be just and reasonable to provide High Cost support to customers  
145 in The Promontory Subdivision and yet provide no such support to customers  
146 across the street. This phenomenon will be happening in The Promontory  
147 subdivision if no action is taken in this transfer request, however at some point  
148 the adding to high cost support areas must end and the effects of competition,  
149 supply and demand provide the cost structure.

150

151 **Q Would failing to approve boundary realignment proposed by All West**  
152 **impair the future financial health of All West Communications?**

153

154 A. The area of West Promontory would continue to served by the CLEC

155 subsidiary (All West Utah) owned by All West (ILEC) and although the CLEC  
156 will not presently be eligible for Utah USF in a competitive area, the rates could  
157 be adjusted to meet revenue requirements. Also, the fiber to the home surcharge  
158 could be adjusted to lower the loop cost, as might also be considered in the  
159 ILEC service area. The ILEC All West will continue to receive Federal USF  
160 Support, and also Utah USF support therefore, there will be no negative financial  
161 effect caused by following the DPU boundary realignment. The CLEC would  
162 not have the benefit of high cost support and therefore may need to make  
163 to it's pricing schedule. As the subdivision is built out there will be increased  
164 revenues thereby increasing the profitability of the project. As costs increase for  
165 the placement facilities in the developing areas the CLEC can adjust the amount  
166 required from the developer to cover those increased costs.

167

168 **Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS.**

169 A. The proposed DPU boundary realignment is most palatable solution considering  
170 all parties. It will alleviate most of the problems associated with the current  
171 boundary that follows a section line. The transfer of additional area would not be  
172 in the public interest if it were to provide additional Federal and Utah USF  
173 support to areas that are very similar to areas on the opposite side of the highway  
174 that receive none. Therefore in our opinion this solution although not the  
175 preferred by all parties is the preferred alternative.

176

177 **Q. DOES THIS COMPLETE YOUR TESTIMONY?**

178 **A.** Yes it does. Thank you.

**VII. EXHIBIT**

**Page Number**

Exhibit 2.1    Qualifications

11

**Exhibit 1.1 – E. Clair Oman Qualifications**

- Bachelor of Science, Accounting Degree, Utah State University
- Utility Auditing Separations and Cost of Service Experience with CPA Firm.
- Chief Financial Manager for Telecommunications corporation.
- Over 30 years experience in the accounting and telecommunication industry.
- Separations trained and experienced in telecommunications.